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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,129	07/12/2004	Martin Clive-Smith	A-760423/DNM	5632

7590 11/29/2006  
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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/501,129	CLIVE-SMITH	
	Examiner	Art Unit	
	Hanh V. Tran	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is the First Office Action on the Merits from the examiner in charge of this application.

#### ***Drawings***

2. Since the Brief Description of the Drawing of Fig 2 disclosed a "conventional" end wall, and Fig 5A disclosed a "conventional solid plate hinge inner portion, Figures 2 and 5A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. If they are not prior art, then the term "conventional" should not be used.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3637

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. They fail to provide adequate structural limitation in order to clearly define the metes and bounds of the claimed invention. For example, (A) claim 1, (1) it is not clear whether applicant intent to claim the subcombination of a hinge or a hinge in combination with a folding corner post, end wall and a platform base of a flatrack container, (2) the limitation "in turned secured to the platform base" is vague and indefinite for failing to clearly define which element secured to the platform base, (3) the limitation "fabricated of multiple discrete elements" is vague and indefinite for failing to clearly define the metes and bounds of the claimed invention for failing to clearly define what "fabricated" is and which element being "fabricated" of multiple discrete elements; (B) Claim 2, it is not clear what is the metes and bounds of the claimed limitations. All claims will be examined as best understood. Claim 13 is of improper Markush type of claim; "of the group consisting of" should be "select from the group consisting of". Claims 3 and 16, the term "and/or" is vague and indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3637

7. Claims 1-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,755,472 to Clive-Smith.

Clive-Smith discloses a collapsible flatrack comprising all the elements recited in the above listed claims including, such as shown in Figs 1-2, a hinge assembly comprising an inner portion pivotally connected to an outer portion 11 by a pivot pin 5, the inner hinge portion composing a plurality of elements forming a U-shaped inner portion, a cut-out 38 to accommodate a locking pin 37, folding posts 9, end walls 10, and a platform base 2; wherein the outer hinge portion comprises a U-shaped.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clive-Smith in view of USP 3,735,713 to Glassmeyer.

Clive-Smith discloses all the elements as discussed above except for the inner hinge portion having an I-shaped.

Glassmeyer discloses a collapsible flatrack comprising I-shaped portion in order to increase the overall strength, while reducing the overall weight of the flatrack. In view of the teaching of Glassmeyer, it would have been obvious to modify the structure of Clive-Smith by providing the inner hinge portion having an I-shaped portion in order to increase the overall strength, while reducing the overall weight of the flatrack, as taught by Glassmeyer, since both teach alternate conventional collapsible flatrack structure, used for the same intended purpose, thereby providing structure as claimed.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang, et al, Miller et al, Clive-Smith '992, Clive-Smith '744, Godfrey, Howe, deceased et al, Howe '359, Howe '869, Gerhard, and Huelsmann et al all show structures similar to various elements of applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

November 26, 2006



**Hanh V. Tran**

**Art Unit 3637**